

MANSFIELD, GAUTIER & ROSENTHAL LLP

Attorneys at Law

July 1, 2019

VIA ECF

Honorable Frederick J. Scullin, Jr.
Senior United States District Judge
United States District Court for the
Northern District of New York
Federal Building and U.S. Courthouse
P.O. Box 7255
Syracuse, New York 13261-7255

Re: *Nussinow v. County of Columbia, et al.*; 1:19-cv-332 (FJS/CFH)

Dear Judge Scullin:

This firm represents Plaintiff in the above-referenced action pending before the Court. Pursuant to Rule 7.1(j) of the Local Rules of Practice of the U.S. District Court for the Northern District of New York, I write to request that the Court grant the following request, on behalf of Plaintiff, for a further extension of the return date and the parties' time to submit their opposition and reply papers with respect to the motion to dismiss of Defendant County of Columbia (the "County"), Document No. 12 on the Court's electronic docket for this action.

The parties mutually agreed to extend the original schedule for the motion on June 11, 2019 so that Plaintiff's opposition would be due tomorrow, July 2, 2019, the County's reply would be due on July 15, 2019, and the motion return date would be 26, 2019. That extension was memorialized in my letter dated June 11, 2019 (Document No. 17 on the electronic docket), which was confirmed by the Court in a docket entry on June 13, 2019. In light of the foregoing, this will be the second extension if granted but the first where the Court's intervention is requested.

The reason for this request is due to an unfortunate pair of personal illnesses I suffered close together in time. Initially, I suffered a severe hemorrhoid attack beginning on or about June 5, 2019, which made it impossible for me to work for extended periods until the beginning of the week of June 17th. Thereafter, while I was still catching up with the backlog that had developed before I was fully recovered, I came down with a severe viral infection. Because of this virus, I was unable to leave my bed last Tuesday through Thursday, June 25th to 27th, and most of the day Friday June 28th. I was only able to put in limited time working this past weekend, due to continuing symptoms and a

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general malaise. Today is the first day that I have been able to work for any extended period, though I am still ill.¹

I am requesting a further extension so that Plaintiff will not be prejudiced by my more or less back-to-back illnesses. I will not allow Plaintiff to default in responding to the motion. If the Court denies my request, I will make a timely submission on her behalf. However, I do not believe that the time remaining will allow for my client's meaningful participation in the process of opposing the motion. My client should have that opportunity and should not be deprived thereof because of my personal health issues.

I reached out to Thomas K. Murphy, Esq., lead counsel for the County, to inform him that I would be seeking this relief and asking for his input to bring to the Court's attention. Mr. Murphy (who is out of his office until this Wednesday, July 3, 2019), told me that he was agreeable to any extension the Court was willing to grant. I read him the proposal below and Mr. Murphy stated that he was agreeable to it. I appreciate his courtesy in this regard.

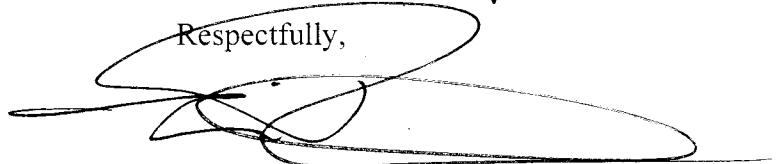
In conformity with Rule 7.1(j) and the Court's motion schedule, I respectfully request that the Court set a new schedule for the County of Columbia's motion as follows: (i) the new return date would be August 9, 2019; (ii) the date by which Plaintiff would serve and file her opposition papers would be July 16, 2019; and (iii) the date by which the County would serve and file its reply papers would be July 29, 2019. This proposed schedule moves all current dates forward by two weeks, and the final submission (by Mr. Murphy) would be made eleven days prior to the return date. I believe that this would allow Plaintiff adequate time to contribute meaningfully to the opposition to the motion to dismiss. Mr. Murphy and I are also willing to agree to any different schedule the Court wishes to impose that would preserve both our clients' time to meaningfully participate in the process.

¹ My firm nominally has three attorneys, but one of them is inactive and the other is not a litigator. For practical purposes, I am a solo practitioner. It was not possible for my partners to prepare the opposition memorandum of law on this critical motion during my incapacity. Each night before I went to sleep I hoped that I would be over the worst of the symptoms and would be able to turn back to this matter the next day, but that did not occur.

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Because of the impending submission date for Plaintiff's opposition memorandum of law, I would be grateful to the Court for addressing the request contained in this letter before the end of the day tomorrow, July 2, 2019. I apologize for any and all inconvenience I have caused.

Respectfully,

A handwritten signature in black ink, appearing to be 'Lisa Rosenthal', written over a horizontal line.

Lisa Rosenthal

cc: Thomas K. Murphy, Esq. (by ECF and email)
Richard S. Sklarin, Esq. (by ECF)